IN THE HIGH COURT OF JUDICATURE AT BOBBY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2513 OF 2004

Kalpana Hemant Raut .. Petitioner

Vs.

Chief Executive Officer & Ors. .. Respondents

Mr.Ajit Anekar for Petitioner.

CORAM: **B.H. MARLAPALLE,J.**

DATED: **JUNE 9, 2005**

P.C.:

1. Heard the learned counsel for the petitioner who is an employee of the respondent no.1-Board as constituted by the State of Maharashtra. The respondent nos.2 to 8 came to be promoted to the post of Junior Superintendent/ Accountants/ Jr. Auditor vide an order dated 28/3/1995 and this order of promotion was challenged by the petitioner in Complaint (ULP) No.608 of 1995 filed before the Industrial Court at Mumbai. After considering the evidence and the contentions of the respective parties, the learned Member was pleased to dismiss the complaint by the impugned Judgment and Order dated 3/3/2003.

2. The petitioner's case before the Industrial Tribunal was based on her seniority over all the other promotees and the alleged non compliance of the G.R. dated 7/7/1977. The Industrial Court has noted that as per the Rules, the promotion to the post of Junior Superintendent/Accountants/Junior Auditor was on the basis of seniority-cum-merit and not seniority alone. The G.R. dated 7/7/1977 was pertaining to the issue of accelerated placement in the seniority list depending upon annual confidential report and the circular dated 7/2/1979 issued by the State Government through its General Administration Department laid down the principles for giving accelerated ranks on including the name of officers in the select list.

3. The Industrial Court, therefore, noted that the respondents' promotion was by following the G.R. dated 7/7/1977 read with Circular dated 7/2/1979 and so long as the promotions were not based on seniority alone, the allegations made by the petitioner that the respondent-Board had engaged in acts of unfair labour practice were unsustainable. The reasoning given by the Court below does not suffer from any error and it is well settled position that when the promotion is based

on seniority-cum-merit, the officer cannot claim promotion as a matter of right by virtue of his/her seniority alone and, therefore, the challenge to the impugned judgment is devoid of merits.

4. Petition is, therefore, rejected summarily.

(B.H. Marlapalle,J.)